HIGH COURT OF CHHATTISGARH: BILASPUR

Single Bench: **Hon'ble Shri Dilip Raosaheb Deshmukh, J.**

M.C.C. No. 498 of 2007

Applicant
Appellant : Bilasrao S/o Chaitram, aged about 55 years, R/o village Pharphamar, Near Dendatola, Up Tahsil-Chhuriya, Distt. Rajnandgaon (CG)

Versus

Respondents

1. Bhuwan Bai W/o Hiralal aged about 45 years, R/o Village Aasra, Tahsil & Distt. Rajnandgaon (CG) (Plaintiff No.2)
2. Agar Bai W/o Ramkhilawan, aged about 35 years, R/o Village Gendatola, Tahsil and Distt. Rajnandgaon (CG)-(Plaintiff No.2)
3. State of Chhattisgarh Through:- Collector, District Rajnandgaon (CG)-(Defendant No.6)
4. Rambai W/o Sonsai R/o Village Dhabankhedi Post-Gotanwar, Tahsil Debri, District Bhandra (Maharashtra)
5. Tejram S/o Mahesh, aged about 32 years,
6. Ghanshyam S/o Mahesh, aged about 30 years,
7. Gulab S/o Mahesh, aged about-27 years,
   Respondent No. 5 to 7 are residents of Village Pandaripara, Near Gendatola, Tahsil & District Rajnandgaon (CG)
8. Mahesh Kumar S/o Dhasiya, aged about 68 years, R/o Village Pandaripathara, Tahsil & District Rajnandgaon (CG)
9. Smt Sita Bai, W/o Dhanesh Sahu, aged about 38 years, R/o Village Pangri Tahsil & District Rajnandgaon (CG)
10. Smt Pila Bai W/o Ram Khilawan Sahu, aged about 27 years, R/o Village-Birjhutola, Tahsil Chowki, Distt. Rajnandgaon (CG)

Application for restoration of S.A. No.374/2007

Present:
Shri Anup Mazumdar, counsel for the applicant.
Shri Akhil Agrawal, PL for State.

ORAL ORDER
(Passed on 19.11.2007)

Heard on I.A. No.1 for condonation of delay in filing the application for restoration of S.A. No.825/2007

(2) Considered and allowed. Delay is condoned.

(3) Heard on M.C.C. No.498/2007.

(4) Second appeal No.825/2007 was listed on default on 27.7.2007. Learned counsel submitted that the default pointed out by the registry was that the legible copy of the trial Court's judgment was not furnished. Shri Ravi Maheshwari, learned counsel who appeared for the appellant on 27.7.2007 had sought four week's time to remove the default.

(5) In view of the peremptory order dated 27.7.2007 that if the default is not removed within the time stipulated, the appeal shall be liable to be dismissed without any further reference to the Bench, the appeal was dismissed after four weeks.

(6) In view of the grounds stated in the application for restoration of S.A. No.825/2007, I am of the considered opinion that the applicant should not be penalized for the mistake on the part of the counsel.

(7) Application M.C.C. No.498/2007 is allowed subject to deposit of cost Rs.400/- before the High Court Legal Aid Committee within a week from today. Upon such deposit being made, second appeal No.374/2007 (PR No.825/2007) shall stand restored to file and be listed thereafter.

Sd/-
Dilip Raosaheb Deshmukh
Judge

Priya